

Message Text

LIMITED OFFICIAL USE

PAGE 01 MANILA 10824 01 OF 02 140821Z

ACTION EA-09

INFO OCT-01 ISO-00 CIAE-00 PM-04 H-01 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

AS-01 OMB-01 /057 W

-----048138 140836Z /15

R 140714Z JUL 77

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 2330

INFO CINCPAC

CINCPACREPPHIL

SECDEF WASHDC

LIMITED OFFICIAL USE SECTION 1 OF 2 MANILA 10824

CINCPAC ALSO FOR POLAD

E. O. 11652: NA

TAGS: MILI, PGOV, SHUM, RP

SUBJECT: MILITARY BASES: PRESS COVERAGE OF LEGAL ADVISER'S
STATEMENT AND DEPARTURE OF CLARK BASE COMMANDER

1. SUMMARY. LOCAL PRESS HAS GIVEN POSITIVE AND PROMINENT
COVERAGE TO RECENT USIS RELEASES SEEKING TO CORRECT
MISCONCEPTIONS OVER DEPARTURES OF US SERVICEMEN WHO HAVE
CRIMINAL AND CIVIL CHARGES PENDING AGAINST THEM. END SUMMARY.

2. FORMER EMBASSY LEGAL ADVISER LTC BUTLER (WHO DEPARTED
ON REASSIGNMENT LAST WEEK) PREPARED FIRST-PERSON ARTICLE
AS EFFORT TO CORRECT MISUNDERSTANDING CREATED BY LOCAL
PRESS STORIES CONCERNING US SERVICEMEN LEAVING THE
PHILIPPINES WHILE CRIMINAL AND CIVIL CHARGES PENDING AGAINST
THEM. FULL TEXT OF BUTLER ARTICLE, WHICH RELEASED BY
USIS JULY 11, FRONT-PAGED BY BULLETIN TODAY JULY 13
WHILE TIMES JOURNAL CARRIED ACCURATE DIGEST PREVIOUS DAY.
ARTICLE STIMULATED JULY 13 EVENING POST REFERENCE BY
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 MANILA 10824 01 OF 02 140821Z

COLUMNIST AQUINO WHO NOTED THAT BUTLER'S CLARIFICATION
"SEEMS PERSUASIVELY CONVINCING" ALTHOUGH IT LEFT A
NUMBER OF QUESTIONS UNANSWERED. VALENCIA IN EVENING POST
SAME DAY DID NOT DISPUTE LEGALITY OF SERVICEMEN'S DEPARTURES
BUT ADDED "FEW FILIPINOS ACCEPT THAT TO BE RIGHT NO MATTER
HOW LEGAL IT MAY BE." FULL TEXT BUTLER ARTICLE FOLLOWS:

3. BEGIN TEXT. THIS WEEK I LEAVE THE PHILIPPINES AFTER FIVE YEARS AS THE LEGAL ADVISER AT THE UNITED STATES EMBASSY. UNFORTUNATELY, IN THE LAST FEW MONTHS I HAVE SEEN A GROWING NUMBER OF NEWS REPORTS ACCUSING THE UNITED STATES MILITARY OF SPIRITING U.S. SERVICEMEN OUT OF THE PHILIPPINES WHILE CRIMINAL AND CIVIL CHARGES WERE PENDING AGAINST THEM.

MANY OF THESE ARTICLES ARE BASED ON MISUNDERSTANDINGS OF THE FACTS OF THE CASES AND THE PROVISIONS OF THE U.S./R.P. MILITARY BASE AGREEMENT OF 1947, AS AMENDED. BEFORE I GO, I WOULD LIKE TO TRY TO SET THE RECORD STRAIGHT SO THAT THESE MISLEADING PRESS REPORTS DO NOT DAMAGE THE GOOD RELATIONS BETWEEN THE UNITED STATES AND THE PHILIPPINES--A RELATIONSHIP THAT I BELIEVE IS IN BOTH OF OUR GOVERNMENTS' INTERESTS TO PRESERVE.

FIRST OF ALL, DURING MY ENTIRE FIVE YEARS AT THE EMBASSY, NOT ONE UNITED STATES SERVICEMAN WHO HAS BEEN SERVED WITH CRIMINAL CHARGES BY PHILIPPINE AUTHORITIES HAS LEFT THE PHILIPPINES BEFORE THESE CHARGES WERE RESOLVED, EITHER IN PHILIPPINE COURTS OR FISCALS' OFFICES OR UNDER THE TERMS OF THE MILITARY BASES AGREEMENT--TERMS THAT HAVE BEEN MUTUALLY AGREED TO BY THE PHILIPPINE AND U.S. GOVERNMENTS.

IN AN AVERAGE YEAR, APPROXIMATELY 900 U.S. SERVICEMEN ARE CHARGED WITH VARIOUS OFFENSES BY PHILIPPINE AUTHORITIES.
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 MANILA 10824 01 OF 02 140821Z

MOST OF THESE CHARGES ARE VERY MINOR IN NATURE.

OF THESE 900 CASES, THE UNITED STATES MILITARY AUTHORITIES HAVE ASSERTED THEIR RIGHT TO TAKE CONTROL OVER CASES BECAUSE THE SERVICEMAN WAS PERFORMING OFFICIAL DUTY AT THE TIME THE OFFENSE OCCURRED--SO-CALLED "OFFICIAL DUTY CASES" UNDER THE BASES AGREEMENT--IN ONLY 25 CASES PER YEAR. THIS MEANS THAT PHILIPPINE COURTS AND FISCALS HAVE TAKEN JURISDICTION OVER 875 CASES EACH YEAR.

NO U.S. SERVICEMAN CHARGED IN ANY OF THESE CASES HAS LEFT THE PHILIPPINES UNTIL THE CASES WERE RESOLVED. IN ONE CASE, A SERVICEMAN HAS BEEN KEPT HERE AT CONSIDERABLE PERSONAL INCONVENIENCE FOR ALMOST 8 YEARS AWAITING THE FINAL RESOLUTION OF HIS CASE.

ALL THE MISLEADING PRESS STORIES ABOUT AMERICAN SERVICEMEN DEPARTING THE PHILIPPINES WHILE CHARGES AGAINST THEM ARE PENDING SEEM TO INVOLVE THE VERY SMALL NUMBER OF "OFFICIAL DUTY CASES." EVEN IN THESE FEW CASES, THE SERVICEMEN ARE KEPT IN THE PHILIPPINES UNTIL FULL CONSULTATIONS ARE HELD BETWEEN U.S. AND PHILIPPINE AUTHORITIES.

IT IS ONLY WHEN THESE CONSULTATIONS FAIL TO RESOLVE
THE CASE TO THE MUTUAL SATISFACTION OF BOTH GOVERNMENTS
THAT UNITED STATES AUTHORITIES EXERCISE THEIR RIGHT
OF PRIMARY JURISDICTION PROVIDED FOR IN THE BASES
AGREEMENT.

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 MANILA 10824 02 OF 02 140826Z
ACTION EA-09

INFO OCT-01 ISO-00 CIAE-00 PM-04 H-01 INR-07 L-03
NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06
AS-01 OMB-01 /057 W
-----048195 140837Z /15

R 140714Z JUL 77
FM AMEMBASSY MANILA
TO SECSTATE WASHDC 2331
INFO CINCPAC
CINCPACREPPHIL
SECDEF WASHDC

LIMITED OFFICIAL USE SECTION 2 OF 2 MANILA 10824

CINCPAC ALOS FOR POLAD

THERE IS A SECOND MISUNDERSTANDING THAT NEEDS TO BE
CORRECTED. I HAVE HEARD MANY TIMES THAT THE PRESENT
MILITARY BASES AGREEMENT GIVE THE UNITED STATES GOVERNMENT
TOO MANY PRIVILEGES AND INFRINGES ON PHILIPPINE
SOVEREIGNTY AND THAT ALL THE PHILIPPINES WANTS IS THE
SAME TYPE OF AGREEMENT THAT THE UNITED STATES HAS WITH
JAPAN AND THE EUROPEAN COUNTRIES WHERE THE U.S. HAS BASES.

THE PROVISIONS OF THE PRESENT U.S.-R.P. MILITARY BASES
AGREEMENT AS TO WHICH COUNTRY HAS THE RIGHT TO TRY CRIMINAL
OFFENSES ARE PRACTICALLY THE SAME AS THOSE THE UNITED
STATES HAS WITH JAPAN AND OUR NATO ALLIES. IN FACT, UNDER
OUR AGREEMENTS WITH OTHER ALLIES, THESE COUNTRIES AGREE TO
ALLOW THE UNITED STATES GOVERNMENT TO TAKE JURISDICTION
IN ALMOST 85 PERCENT OF THE CASES IN WHICH THEY HAVE THE
PRIMARY RIGHT OF JURISDICTION.

BY CONTRAST, PHILIPPINE AUTHORITIES GIVE UP THEIR RIGHT

TO JURISDICTION IN LESS THAN 1/2 OF 1 PERCENT OF THE CASES.
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 MANILA 10824 02 OF 02 140826Z

THEREFORE, IN OTHER COUNTRIES WHERE THE UNITED STATES HAS
SERVICEMEN STATIONED, THE UNITED STATES EXERCISES JURISDICTION
IN THE GREAT MAJORITY OF THE CRIMINAL CHARGES BROUGHT AGAINST
AMERICAN SERVICEMEN. THIS IS NOT THE CASE IN THE PHILIPPINES.

THE FINAL POINT I WISH TO MAKE IS THAT THERE IS A
DIFFERENCE IN THE WAY CRIMINAL AND CIVIL CHARGES ARE
HANDLED. THE SITUATION AS TO CRIMINAL CASES HAS JUST
BEEN DESCRIBED. FOR CIVIL CASES, THE INDIVIDUAL UNITED
STATES SERVICEMAN IS TREATED LIKE ANY OTHER FOREIGNER
OR PHILIPPINE CITIZEN BEFORE YOUR COURTS.

CIVIL CASES CAN AND DO TAKE MANY YEARS TO SETTLE AND
THERE ARE NO PROVISIONS EITHER UNDER THE MILITARY BASES
AGREEMENT OR UNDER PHILIPPINE LAW TO RESTRICT THE MOVEMENTS
OF A PERSON CHARGED IN A CIVIL CASE. THUS, IN A FEW RARE
CASES A SERVICEMAN MAY BE REQUIRED BY GOVERNMENT ORDERS
TO REPORT TO A NEW ASSIGNMENT BEFORE CIVIL PROCEEDINGS ARE
CONCLUDED.

I HOPE THIS EXPLANATION IN LAYMAN'S TERMS WILL PUT INTO
SOME PERSPECTIVE THE MISLEADING STORIES ABOUT UNITED STATES
SERVICEMEN LEAVING THE PHILIPPINES BEFORE PENDING LEGAL
MATTERS ARE RESOLVED. THE PROCEDURE I HAVE DESCRIBED IS
IN COMPLETE ACCORD WITH THE AGREEMENT OUR TWO GOVERNMENTS
HAVE SIGNED.

MY ATTEMPT TO SET THE RECORD STRAIGHT IS MADE IN THE
HOPE THAT A FULLER UNDERSTANDING BY THE PUBLIC OF THESE
FACTS WILL PRESERVE AND STRENGTHEN THE GOODWILL BETWEEN
AMERICANS AND FILIPINOS. IN MY FIVE YEARS HERE I HAVE COME
TO KNOW, ADMIRE AND RESPECT MANY FILIPINOS, BOTH OFFICIAL
AND UNOFFICIAL, AND LOOK FORWARD TO RETURNING TO THE
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 MANILA 10824 02 OF 02 140826Z

PHILIPPINES AS OFTEN AS POSSIBLE TO VISIT MY FILIPINO
FRIENDS. END TEXT.

4. CLARK BASE COMMANDER COL. HENSLEY DEPARTED
PHILIPPINES JULY 13. USIS RELEASE NOTING FACT THAT DETENTION
OF PERSONS NAMED IN CIVIL SUITS NOT REQUIRED UNDER
PHILIPPINE LAW OR THE BASES AGREEMENT AND CITING
PHILIPPINE AWARDS FOR HENSLEY'S HUMANITARIAN EFFORTS

HERE CARRIED PROMINENTLY IN THREE MAJOR DAILIES JUNE 14
ALONG WITH LOCAL REPORTER'S STORY EMPHASIZING DETAILS OF
PENDING CIVIL SUITS.

5. COMMENT: FOREGOING REPRESENTS QUITE POSITIVE PRESS
COVERAGE OF U.S. SIDE OF THESE ISSUES.
STULL

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PRESS COMMENTS, MILITARY ADVISERS, MILITARY BASES
Control Number: n/a
Copy: SINGLE
Sent Date: 14-Jul-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977MANILA10824
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770250-0758
Format: TEL
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770758/aaaabxxn.tel
Line Count: 231
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 0b87566b-c288-dd11-92da-001cc4696bcc
Office: ACTION EA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 23-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1863055
Secure: OPEN
Status: NATIVE
Subject: MILITARY BASES: PRESS COVERAGE OF LEGAL ADVISER'S STATEMENT AND DEPARTURE OF CLARK BASE COMMANDER
TAGS: MILI, PGOV, SHUM, RP
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/0b87566b-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009